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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,012	03/16/2005	Hisanao Takahashi	1419.1109	9175

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EXAMINER

HYLINSKI, ALYSSA MARIE

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,012

Applicant(s)

TAKAHASHI ET AL.

Examiner

Alyssa M. Hylinski

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4 and 10 is/are allowed.
- 6) ☐ Claim(s) 7,9,11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/19/07 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mckeefery (5074821). Mckeefery discloses a toy that can change its form or arrangement by means of movable eye component and has a four-section link comprising a link (60), a part of a frame (20) that faces the link (Fig. 2), and two swinging links (52,54) that face each other. A first toy component in the form of a lower jaw is directly connected to the link (Fig. 3) while a second toy upper jaw component is arranged on one of the two swinging links (54). The one of the two swinging links extends to an opposite side with respect to the frame since it extends through a gap in the frame (Fig. 2) and has a tip thereof rotatably and swingably directly engaged with a

rotating disk (38) at an eccentric position (Figs. 3-4). The first and second components are rotated and perform opening and closing movements relative to each other before or after the form change in response to rotation of the disk (column 3 lines 45-53). The frame is arranged in connection with a trunk portion of the toy (Fig. 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKeefery, An (6454626), and Pestonji (6371826). McKeefery discloses the basic inventive concept of a form change toy with a four-section link with the exception of a clutch, first, second and third shafts wherein the third shaft allows the frame to swing from side to side. An discloses a drive device for a toy that can change its form or arrangement having a box or compartment in the body portion for housing a motor (22) therein (Fig. 2), a linking mechanism wherein first and second parallel shafts (18) are used to help couple first and second swinging links to the frame and to swing the links around the respective shafts as a center (Figs. 2 & 3). A third shaft (25a) that is perpendicular to the first and second shafts operatively couples the box to the frame (Fig. 2) and allows the frame to swing from side to side around the third shaft as a center (Fig. 2 and column 3 lines 63-67). It would have been obvious to one of ordinary skill in the art from the teaching of An to attach the swinging links to the shafts in order

to utilize a stable connection means and to include a third shaft on which the frame could rotate in order to add additional animation to the toy giving it greater amusement value. The references disclose the basic inventive concept with the exception of a clutch. Pestonji discloses a form change toy that utilizes a clutch member (column 4 lines 5-15). It would have been obvious to one of ordinary skill in the art to include a clutch member in order to protect the toy from damage by allowing the moveable element to disengage from the motor should a child hold the element (column 4 lines 5-15).

Allowable Subject Matter

6. Claims 1-2, 4 and 10 are allowed.

Response to Arguments

7. Applicant's arguments with respect to claims 9 and 11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Hylinski whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMH

A handwritten signature in black ink, appearing to read 'Eugene Kim', with a stylized flourish at the end.

EUGENE KIM
SUPERVISORY PATENT EXAMINER